

Richard A. Lesser - #5832  
Steven M. McGuire, *Pro Hac Vice*  
LESSER & ASSOCIATES, PLC  
1 Pearl Street  
Redondo Beach, CA 90277  
Telephone: (310) 374-4808  
Facsimile: (310) 372-7715

Attorneys for Claimants/Respondents and  
Plaintiffs MATTHEW ISHAM, individually and  
as Guardian ad Litem for, HAYDEN ISHAM,  
a minor and ROXANNE BEST ISHAM

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

IN THE MATTER OF THE	) Civil NO. CV05-00037 HG-BMK
COMPLAINT OF BLUE	) [3 Consolidated Cases]
DOLPHIN CHARTERS, LTD.	)
AND TERRY DONNELLY, AS	) NOTICE OF ACCEPTANCE OF BLUE
OWNERS OF THE VESSEL	) DOLPHIN CHARTER LTD AND TERRY
M/V BLUE DOLPHIN, O/N	) DONNELLY'S AMENDED OFFER TO
1082213, FOR	) ALLOW MONEY JUDGEMENT TO BE
EXONERATION FROM	) TAKEN AGAINST LIMITATION
AND/OR LIMITATION OF	) PLAINTIFF/DEFENDANT BLUE
LIABILITY	) DOLPHIN CHARTERS LTD. AND
	) LIMITATION PLAINTIFF TERRY
	) DONNELLY IN FAVOR OF
	) PLAINTIFF/LIMITATION CLAIMANT
	) MATTHEW ISHAM INDIVIDUALLY,
	) PURSUANT TO RULE 68 OF THE
	) FEDERAL RULES OF CIVIL
	) PROCEDURE; DECLARATION OF
	) RICHARD A. LESSER; CERTIFICATE
	) OF SERVICE

---

EXHIBIT " L "

MATTHEW ISHAM, ) CIVIL NO.: CV 04 00559 HG-BMK  
individually and as Guardian Ad )  
Litem for HAYDEN ISHAM, a )  
minor; ROXANNE BEST )  
ISHAM, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
BLUE DOLPHIN CHARTERS, )  
LTD. and BLUE DOLPHIN )  
DIVING, LTD., CAPTAIN )  
ANDY'S SAILING, INC., )  
DOES 1 - 50, )  
)  
Defendants. )  
)

---

DENNIS CLAYPOOL, ) CIVIL NO.: CV 04 00570 HG-BMK  
individually and as Guardian ad )  
Litem for KRISTEN )  
CLAYPOOL, a minor, SHERYL )  
CLAYPOOL, SCOTT )  
CLAYPOOL, AND KRISTEN )  
CLAYPOOL, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
CAPTAIN ANDY'S SAILING, )  
INC., BLUE DOLPHIN )  
CHARTERS, LTD. And BLUE )  
DOLPHIN DIVING, LTD., )  
)  
Defendants. )  
)

---

NOTICE OF ACCEPTANCE OF BLUE DOLPHIN CHARTERS LTD  
AND TERRY DONNELLY'S AMENDED OFFER TO ALLOW MONEY  
JUDGEMENT TO BE TAKEN AGAINST LIMITATION  
PLAINTIFF/DEFENDANT BLUE DOLPHIN CHARTERS, LTD  
AND LIMITATION PLAINTIFF TERRY DONNELLY,  
IN FAVOR OF PLAINTIFF/LIMITATION CLAIMANT  
MATTHEW ISHAM, INDIVIDUALLY, PURSUANT TO  
RULE 68 OF THE FEDERAL RULES OF CIVIL PROCEDURE

COMES NOW MATTHEW ISHAM, INDIVIDUALLY, Plaintiff and  
Limitation Claimant in the above entitled action and pursuant to Rule 68 of the  
Federal Rules of Civil Procedure, hereby gives notice of his acceptance of the  
Amended Offer of Judgment made by Blue Dolphin Charters, Ltd and Terry  
Donnelly.

This notice is given on the basis of the attached Declaration of Counsel and  
the Original Amended Offer to Allow Money Judgement to be Taken against  
Limitation Plaintiff/Defendant Blue Dolphin Charters, Ltd. and Limitation  
Plaintiff Terry Donnelly, in Favor of Matthew Isham, Individually, attached  
hereto, the file and record in this case, and Rule 68 of the Federal Rules of Civil  
Procedure.

Dated: Redondo Beach, California February 21, 2006.

LESSER & ASSOCIATES, PLC

/s/ Steven M. McGuire

STEVEN M. McGUIRE

Attorneys for Claimants/Respondents  
and Plaintiffs MATTHEW ISHAM, individually  
and as Guardian ad Litem for, HAYDEN ISHAM,  
a minor and ROXANNE BEST ISHAM

C:\Cases\Isham\Isham Acceptance re FRCP 68 Offer.wpd

Richard A. Lesser - #5832  
Steven McGuire *pro hac vice*  
LESSER & ASSOCIATES  
A Professional Law Corporation  
1 Pearl Street  
Redondo Beach, CA 90277  
Telephone: (310) 374-4808  
Facsimile: (310) 372-7715  
Email: [lesser@divelaw.com](mailto:lesser@divelaw.com)

Attorneys for Claimants/Respondents and  
Plaintiffs MATTHEW ISHAM, individually and  
as Guardian ad Litem for, HAYDEN ISHAM,  
a minor and ROXANNE BEST ISHAM

## UNITED STATES DISTRICT COURT

## DISTRICT OF HAWAII

IN THE MATTER OF THE ) Civil NO. CV05-00037 HG-BMK  
COMPLAINT OF BLUE ) [3 Consolidated Cases]  
DOLPHIN CHARTERS, LTD. )  
AND TERRY DONNELLY, AS )  
OWNERS OF THE VESSEL )  
M/V BLUE DOLPHIN, O/N ) DECLARATION OF RICHARD A.  
1082213, FOR ) LESSER  
EXONERATION FROM )  
AND/OR LIMITATION OF )  
LIABILITY )  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

MATTHEW ISHAM, ) CIVIL NO.: CV 04 00559 HG-BMK  
individually and as Guardian Ad )  
Litem for HAYDEN ISHAM, a )  
minor; ROXANNE BEST )  
ISHAM, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
BLUE DOLPHIN CHARTERS, )  
LTD. and BLUE DOLPHIN )  
DIVING, LTD., CAPTAIN )  
ANDY'S SAILING, INC., )  
DOES 1 - 50, )  
)  
Defendants. )  
)

---

DENNIS CLAYPOOL, ) CIVIL NO.: CV 04 00570 HG-BMK  
individually and as Guardian ad )  
Litem for KRISTEN )  
CLAYPOOL, a minor, SHERYL )  
CLAYPOOL, SCOTT )  
CLAYPOOL, AND KRISTEN )  
CLAYPOOL, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
CAPTAIN ANDY'S SAILING, )  
INC., BLUE DOLPHIN )  
CHARTERS, LTD. And BLUE )  
DOLPHIN DIVING, LTD., )  
)  
Defendants. )  
)

---

DECLARATION OF RICHARD A. LESSER

RICHARD A. LESSER, hereby declares pursuant to 28 USC sec. 1746 as follows:

1. I am an attorney duly admitted to practice before this Court and am Counsel of record for Plaintiffs and Limitation Claimants MATTHEW ISHAM, individually and as Guardian Ad Litem for HAYDEN ISHAM, a minor, and ROXANNE BEST ISHAM herein.

2. I make this declaration in support of the NOTICE OF ACCEPTANCE OF BLUE DOLPHIN CHARTERS LTD, AND TERRY DONNELLYS AMENDED OFFER TO ALLOW MONEY JUDGEMENT TO BE TAKEN AGAINST LIMITATION PLAINTIFF /DEFENDANT BLUE DOLPHIN CHARTERS, LTD. AND LIMITATION PLAINTIFF TERRY DONNELLY IN FAVOR OF PLAINTIFF/LIMITATION CLAIMANT MATTHEW ISHAM, INDIVIDUALLY, PURSUANT TO RULE 68 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

The signed copy of this offer accompanies this Notice and Declaration.

3. Prior to this offer and its acceptance, extended settlement negotiations were conducted between the parties, including an all day mediation on February 6, 2006, involving these parties and ROYAL MARINE INSURANCE GROUP, Cross-Defendant as to BLUE DOLPHIN CHARTERS LTD AND TERRENCE DONNELLY in CIV No. 05-00251 DAE LEK, as to coverage issues and

insurer/broker responsibilities arising from these underlying cases. Also, on February 9, 2006, the parties met in chambers with Magistrate Judge Barry M. Kurren to discuss the specific elements of the underlying case, including special and general damages, the limitation action and its infirmities, contribution by Plaintiff/Claimant Isham and possible defenses, as well as possible percentages of liability of third parties, and arrived at the settlement amount set forth in the Rule 68 Offer made by Blue Dolphin Charters, Ltd, and Terry Donnelly as a non-collusive and inclusive damage figure that was well within the range of a reasonable settlement pursuant to the guidelines set forth by the Court. The settlement agreement and its terms, including the amount and the reasons therefor, were discussed again last week in open court on February 13, 2006, in the presence of counsel for Royal Marine, as well as insurance appointed counsel for Blue Dolphin Charters, Ltd, Randy Baldemor, who was also present in chambers on February 9. .

4. The subject amended offer and acceptance are incorporated into a complete settlement as between the Isham plaintiffs/Claimants on the one hand, and Blue Dolphin Charters, Ltd and Terry Donnelly on the other.



EXECUTED UNDER PENALTY OF PERJURY THIS 18<sup>TH</sup> DAY OF  
FEBRUARY, 2006 AT REDONDO BEACH, CALIFORNIA.

A handwritten signature in black ink, appearing to be 'R. Lesser', written over a horizontal line.

Richard A. Lesser

**Joy M. Clemente**

---

**From:** hid\_resp@hid.uscourts.gov  
**Sent:** Tuesday, February 21, 2006 1:47 PM  
**To:** hawaii\_cmecf@hid.uscourts.gov  
**Subject:** Activity in Case 1:05-cv-00037-HG-BMK Blue Dolphin Charter, et al v. "Notice of Acceptance with Offer of Judgment"  
**Follow Up Flag:** Follow up  
**Flag Status:** Blue

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

**U.S. District Court**

**District of Hawaii - CM/ECF V2.5 (11/05)**

**Notice of Electronic Filing**

The following transaction was received from McGuire, Steven entered on 2/21/2006 at 1:45 PM HST and filed on 2/21/2006

**Case Name:** Blue Dolphin Charter, et al v.  
**Case Number:** 1:05-cv-37  
**Filer:** Matthew Isham  
**Document Number:** 195

**Docket Text:**

NOTICE of Acceptance with Offer of Judgment by Matthew Isham (Attachments: # (1) Affidavit Richard A. Lesser)(McGuire, Steven)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1095854936 [Date=2/21/2006] [FileNumber=35085-0]  
[2f8d47ac67b865acbde29b3ca2bb1d888f50195a26b5b723646113c028fd1825b1038  
37333170dc4ce9886ff4506cfa66ac5527027fd375d9d203a167ddde83c]]

**Document description:**Affidavit Richard A. Lesser

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1095854936 [Date=2/21/2006] [FileNumber=35085-1]  
[aca69f383292512b3fbfe192d93b100c3591b8ffce4a12528269a0bc5adf4f1bc8a34  
c51b0876bff28fc505b1cd9f017e863e24dda02f2e33a2af37e8f08e14e]]

**1:05-cv-37 Notice will be electronically mailed to:**

Randy L.M. Baldemor rbaldemor@goodsill.com, cmuraoka@goodsill.com;

2/22/2006

Isugamoto@goodsill.com; jhyuen@goodsill.com

Harold G. Hoppe hoppea001@hawaii.rr.com

Richard A. Lesser rick@divelaw.com, lizardbrane@aol.com

Steven M. McGuire mcguire@divelaw.com

Jonathan Harry Steiner steiner@m4law.com

**1:05-cv-37 Notice will be delivered by other means to:**

Michele N. Bass  
Lesser & Associates  
Pacific Guardian Ctr Mauka Twr  
737 Bishop St Ste 2730  
Honolulu, HI 96813

Evelyn J. Black  
Goodsill Anderson Quinn & Stifel LLLP  
Alii Place  
1099 Alakea St Ste 1800  
Honolulu, HI 96813-2639

John R. Hillsman  
McGuinn Hillsman & Palefsky  
535 Pacific Ave  
San Francisco, CA 94133

John R. Lacy  
Goodsill Anderson Quinn & Stifel LLLP  
Alii Place  
1099 Alakea St Ste 1800  
Honolulu, HI 96813-2639